

HOUSE BILL NO. 359

INTRODUCED BY GALVIN-HALCRO, BOOKOUT-REINICKE, GILLAN, WILSON, LAWSON

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING AN EMPLOYER WITH 15 OR MORE EMPLOYEES, INCLUDING MANAGEMENT, TO ADOPT A POLICY GENERALLY PROVIDING FOR APPROPRIATE REST PERIODS OF NOT LESS THAN 10 MINUTES EVERY 4 HOURS; PROVIDING EXCEPTIONS; PROVIDING A FINE FOR EMPLOYERS NOT PROVIDING APPROPRIATE REST PERIODS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Rest APPROPRIATE REST periods for employees. (1) (A) An employer shall adopt a policy or procedure providing that whenever feasible, given the reasonable demands of the employer's operation, an employee may not be required to work more than 4 hours without a AN APPROPRIATE rest period of at least 10 minutes. Rest periods must be accommodated within the reasonable flow of work.

(B) FOR THE PURPOSES OF THIS SECTION, "APPROPRIATE REST PERIOD" MEANS A PERIOD OF REST OF NOT LESS THAN 10 MINUTES FOR EVERY SEGMENT OF 4 HOURS WORKED IN ONE WORK PERIOD WITHOUT DEDUCTION FROM THE EMPLOYEE'S PAY. THE REST PERIOD MUST BE IN ADDITION TO AND TAKEN SEPARATELY FROM THE TIME ALLOWED FOR THE USUAL MEAL PERIOD. INsofar AS IS FEASIBLE, CONSIDERING THE NATURE AND CIRCUMSTANCES OF THE WORK, THE REST PERIOD IS TO BE TAKEN BY THE EMPLOYEE IN THE MIDDLE OF EACH 4-HOUR SEGMENT. THE REST PERIOD IS NOT TO BE ADDED TO THE USUAL MEAL PERIOD OR DEDUCTED FROM THE BEGINNING OR END OF THE WORK PERIOD TO REDUCE THE OVERALL LENGTH OF THE TOTAL WORK PERIOD.

(2) This section applies to an employer that employs 15 or more employees, including management, and that is located in or doing business in Montana.

(3) This section does not alter the terms, conditions, or practices contained in any collective bargaining agreement. EXCEPT FOR A CLAIM THAT A DEDUCTION FROM PAY WAS MADE BY AN EMPLOYER FOR A REST PERIOD, A COMPLAINT BY AN EMPLOYEE PURSUANT TO THE PROVISIONS OF THIS SECTION MAY NOT BE TREATED AS A WAGE CLAIM UNDER TITLE 39, CHAPTER 3, PART 2.

(4) This section does not apply to an individual subject to the provisions of the Motor Carrier Act, 49 U.S.C. 31502, or the Railway Labor Act, 45 U.S.C. 151.

1 (5) THE DEPARTMENT MAY ADOPT RULES TO IMPLEMENT THE PROVISIONS OF THIS SECTION. THE RULES MAY
2 ADDRESS BUT ARE NOT LIMITED TO:

3 (A) APPROPRIATE TIMES FOR EMPLOYEE BREAKS IN LIGHT OF WORK CONDITIONS AND PEAK WORK PERIODS;

4 (B) THE FACT THAT BREAKS ARE AVAILABLE TO EMPLOYEES ON A USE-IT-OR-LOSE-IT BASIS; AND

5 (C) THE STAGGERING OF BREAKS AMONG EMPLOYEES IN ORDER TO NOT INTERFERE WITH WORKFLOW.

6 (6) AN EMPLOYER WHO IS SUBJECT TO THE PROVISIONS OF THIS SECTION AND WHO RECEIVES FROM THE
7 DEPARTMENT THREE NOTICES OF VIOLATION OF THE PROVISIONS OF THIS SECTION MAY BE FINED BY THE DEPARTMENT
8 AN AMOUNT NOT TO EXCEED \$500. THE EMPLOYER IS ENTITLED TO PROCEED UNDER THE CONTESTED CASE PROVISIONS
9 OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT.

10
11 NEW SECTION. Section 2. Codification instruction. [Section 1] is intended to be codified as an
12 integral part of Title 39, chapter 2, part 2, and the provisions of Title 39, chapter 2, part 2, apply to [section 1].

13
14 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

15 - END -